

PART 2
REMARKS RESPONSIVE TO FINAL OFFICE ACTION

Claims 1 - 21 are in this application. By this amendment independent claim 1 is amended.

The Examiner has rejected claims 1 - 8 and 10 - 18 under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2003/0083920 A1 - Richards et al in view of U.S. Publication No. 2002/0174038 A1 - Chien.

In paragraph 6 of the Detailed Action the Examiner rejects claim 1, restating claim 1, with the implication that the claimed method is set forth in Richards at (Abstract, Figure 1, Paragraph [0014], Paragraphs [0031 - 0032], Paragraphs [0034 - 0035]). A careful reading of the Abstract does not reveal any valuation of a shipping platform by any party involved in its manufacture, use, or recycling. Similarly, Paragraphs [0031 - 0032] are void of any teaching of valuation of a shipping platform by any party involve in its manufacture, use, or recycling. The only mention of value is at the end of Paragraph [0032] wherein it is stated:

...the shipper paying the coordinator the amount agreed upon for the shipping platforms; and the coordinator paying the end receiver a percentage of the same amount.

The heart of Richards method is the "Coordinator", which is compensated for its function in the Richards method by a percentage of the sales price of a shipping platform.

While In Paragraph 7 of the Detailed Action the Examiner acknowledges that: "Richards fails to explicitly disclose transferring and acquiring ownership of shipping structures, he states in Paragraph 8 of the Detailed Action that: "... Chien discloses a method comprising transferring and acquiring ownership of shipping structures (Claim 16)".

Referring to Claim 16 of Chien in particular, and to the published application in general, it would appear to be only speculation that “bins” are shipping structures. Since Claim 17, which is dependent on Claim 16 states that “bins” can be divided, it would not appear that a “bin” is a shipping structure. It would be hard to conceive of the physical use of the portion of a divided “bin”. Perhaps, that is why claim 16 sets forth a method including “virtual steps”. Clearly, Chien, and Claim 16 in particular, of Chien does not teach or suggest the transferring and acquiring ownership of shipping structures in the “real” world.

It is respectfully submitted that Claim 1 as amended clearly patentably distinguishes over Richards et al in view of Chien for the reasons set forth above.

In rejecting claim 7, the Examiner states: “Richards discloses a method wherein said second party charges its internal operations a usage fee which is the difference between the first value x and the second value y, for each reusable shipping structure put in use (Paragraph [0034])”. Clearly, Paragraph [0034] contains no such teaching. It only describes the web page shown in Fig. 3, which web page appears on the “coordinators website”. There is no suggestion whatsoever of a usage fee, or even of values of reusable shipping structures.

In rejecting claim 8, the Examiner states: “ Richards discloses a method wherein the first value x is about that of new or fully reconditioned reusable shipping structure (Paragraph [0034]). Again, there is no statement or suggestion of values of reusable shipping structures in Paragraph [0034] or Fig. 3 of Richards.

With respect to the Examiner’s rejections of claims 10 and 11 in paragraphs 12 and 13 respectively, claims 10 and 11 patentably distinguish over the cited Richards published application for all of the reasons set forth above with respect to claim 1.

In rejecting claim 12 the Examiner states: “ Richards discloses a method wherein said first party is selected from the group consisting of a shipping structure supplier and a shipping structure recycler (Abstract, Paragraph [0026]). The first party in

Richards is the “coordinator” the function of which appears to be the principle aspect of the method of Richards.

With respect to the Examiner's rejections of claims 13 and 14 in paragraphs 15 and 16 respectively, claims 13 and 14 patentably distinguish over the cited Richards published application for all of the reasons set forth above with respect to claim 1.

In rejecting claim 15 the Examiner states: “Richards discloses a method further comprising said first party reselling one or more empty reusable shipping structures to a second party (Abstract, Paragraphs [0030] - [0032]).” Again, the first party in Richards is the “coordinator”, the function of which appears to be the principle aspect of the disclosed method of Richards.

In rejecting claims 16 - 18 the Examiner states: “ Richards discloses a method wherein said third party sells said empty reusable shipping structure for an amount about equal to the second value y , greater than the second value y , or less than the second value y (Abstract, Paragraphs [0031] - [0032]).” Clearly, there is no suggestion of an values or relationships of values in the Abstract or cited paragraphs. Richards is void of any teaching of shipping platform values, other than the “coordinator” receiving a percentage of the sale amount. Or as stated at the end of Paragraph [0032] “... the shipper paying the coordinator the amount agreed upon for the shipping platforms; and the coordinator paying the end receiver a percentage of the sale amount.”

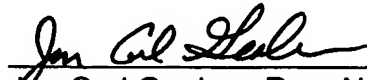
The Examiner has rejected claims 9 and 19 - 21 under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2003/0083920 A1 - Richards et al, in view of U.S. Publication No. 2002/0174038 A1 - Chien, further in view of (EFR Executive Committee and Pallet Subcommittee “Assessing Pallet Cost in Foodservice”, Efficient Foodservice Response, pp. 1-22, 2000). The “value” factors set forth therein are simply the market value of used pallets vs new pallets, as is clearly set forth therein. The values set forth in claims 9 and 19 - 21 are not market values, but rather are values found to be suitable for use in applicants claimed method. The “actual value” of a reusable shipping

structure is the first value x, with a second value y being established in accordance with the applicant's method.

In view of the remarks set forth above, it is respectfully submitted that Claims 1 - 8 and 10 - 18 patentable distinguish over the cited Richard and Chien published applications for the reasons set forth above. Claims 3, 11, 13, and 14 patentable distinguish over the cited Richard and Chien published applications for the reasons set forth above with respect to claim 1, from which they depend. Further, claims 9 and 19 - 21 patentable distinguish over the cited Richard and Chien published applications and the Foodservice publication for the reasons set forth above.

It is respectfully submitted that all of the claims currently in this application, claims 1 - 21 are allowable and an early allowance of this application is respectfully requested.

Respectfully submitted,



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